

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA,)	MJ NO. 3:22MJ05368
)	
Plaintiff,)	
)	MAGISTRATE JUDGE DARRELL A. CLAY
v.)	
)	
ARON MCKILLIPS,)	MOTION TO SUSPEND THE 30-DAY
)	STATUTORY SPEEDY TRIAL CLOCK AND
Defendant.)	EXCLUDE SUCH TIME FOR ALL SPEEDY
)	TRIAL ACT PURPOSES
)	
)	

The United States of America, by and through its attorneys, Michelle M. Baeppler, First Assistant United States Attorney, and Michael J. Freeman and Gene Crawford, Assistant United States Attorneys, hereby moves this Court to toll the 30-day time period imposed by the Speedy Trial Act for returning an indictment in the above-captioned case by excluding a period of 45 days for all Speedy Trial Act purposes, including, but not limited to the 30-day time period under 18 U.S.C. § 3161(b) in which an information or indictment must be filed.

The United States initiated this case via complaint and arrest warrant. (Doc. 1). Defendant Aron McKillips was arrested on October 31, 2022, and first appeared before a judicial officer of this Court on the same day. (Minutes of proceedings, Nov. 1, 2022). Pursuant to the Criminal Justice Act, the Court appointed Attorney Neil McElroy to represent him. (CJA 20 Appointment, Nov. 1, 2022). Defendant waived his right to a preliminary hearing, but requested

a detention hearing, which the Court scheduled for Nov. 9, 2022. (Doc. 5; Minutes of proceeding, Nov. 1, 2022). The Court detained Defendant until such time. (Doc. 6).

On November 8, 2022, Attorney Aaron Schwartz filed a notice of appearance and substitution of counsel removing Neil McElroy. (Doc. 9). Attorney Schwartz filed a motion to continue the detention hearing because he was out of the country from November 18 to November 26. (Doc. 11). The Court granted his request and rescheduled the detention hearing for December 1, 2022. (Order, Nov. 8, 2022).

On November 28, 2022, Attorney Schwartz filed a motion to withdraw as counsel. (Doc. 12). The same day, the Court granted his requested and reappointed Attorney McElroy. (CJA 20 Appointment, Nov. 28, 2022).

Under 18 U.S.C. § 3161(b), an indictment or information must be filed within 30 days from the date on which a defendant was arrested. Under normal circumstances, this would require the United States to seek an indictment filed no later than November 30, 2022. The United States requests an additional 45 days beyond that date, making an indictment due on or before January 14, 2023.

The government seeks an “ends of justice” finding necessary to exclude time under Sections 3161(h) and 3164. The Speedy Trial Act excludes “the time within which an information or an indictment must be filed, or in computing the time within which the trial of any such offense must commence,” any period of delay based on a continuance granted by “any judge” based on “findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial.” 18 U.S.C. § 3161(h) & (h)(7)(A). The court must set forth “in the record of the case” its reasons supporting such a finding, after considering the factors identified in the statute, among others. *Id.*, § 3161(h)(7)(A) & (B). A

factor the court is permitted to consider is whether the failure to grant such a continuance, taken as a whole, would deny counsel for the defendant “reasonable time necessary for effective preparation” 18 U.S.C. § 3161(h)(7)(B)(iv).

Here, Attorney McElroy was reappointed two days before the initial thirty-day window is set to expire. It is unrealistic, unreasonable, and unfair to expect him to provide meaningful advice and guidance to his client and effectively prepare for pre-indictment hearings in such a short period.

This request will ensure that Defendant receives the effective representation the Constitution demands. As such, the government requests an additional 45 days to indict. Specifically, the Court should exclude the period from November 30, 2022 through January 14, 2023, the beginning and end dates inclusive, from any Speedy Trial Act calculation concerning the time in which the government must file an information or indictment under 18 U.S.C. § 3161(b).

Respectfully submitted,

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